IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 11691 of 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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LIQUIDATOR OF GUJARAT STATE TEXTILE CORPORATION LTD - Petitioner(s)

Versus

BHARATBHAI ANANTRAY VYAS - Respondent(s)

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Appearance :

MR RM DESAI for Petitioner(s) : 1,
MR RD RAVAL for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 27/12/2005

ORAL JUDGMENT

1. This petition is directed against the order dated 1.7.2004 whereby the delay condonation application came to be rejected.

2. Petitioner is a Liquidator of Gujarat State Textile Corporation Ltd. Appointed by this Hon'ble Court dated 6th February passed in company petition No. 205 of 1996.

2. Gujarat State Textile Corporation Ltd. Was a company registered under Companies Act, I of 1956. Government of Gujarat promulgated an Act known as " Gujarat sick Textile Undertakings (nationalisation) Act 1986. As per the provisions of the said Act. The assets of the New Jehangir Vakil Mills Ltd. Were nationalised.

3. The respondent and several other employees , claimed to be in employment of New Jehangir Vakil Mills., a unit of Gujarat State Textile Corporation Ltd., preferred recovery Application No. 302/96 to 333/96 and 105/97 and 355/97 before the Chief Officer Labour Court under the provision of the I.D Act. The Labour Court vide its order dated 28th July 2000 passed an order directing that under the volunatry retirement scheme as a permanent employee benefit of Rs 14, 75, 141.70 be granted to the applicant. In view of the aforesaid, Liquidator preferred Misc.

Civil Application No. 27 of 2004 paying to recall the order passed in recovery application No, 302/96 to 333/96 and 105/97 and 355/97 and after hearing the parties necessary order may be passed. The said application came to be rejected which is challenged in the present petition.

4. Heard Mr. Desai for the petitioner and Mr. Raval for the respondent . The case of the petitioner is that the exparte award could not be overburden the Official Liquidator's office. He submitted that there is only one Liquidator to look after many matters therefore the delay should have been condoned. He further submitted that the voluntary retirement is given to different employees and therefore it was not possible for the petitioner to approach the Labour Court immediately for setting aside the exparte award.

5. Learned counsel for the respondents submitted that there is a gross delay and therefore the application was rightly rejected. He therefore submitted that no interference may be caused in the present petition.

6. In my view the Official Liquidator ought to have approached the Labour Court in the year 2001-2002 and since he has approached after more than 2001-2002 and since he has approached after more than 3 years, the Labour Court justified in rejecting the application. On perusal of the record. I find that the delay has not been explained at all. The Labour Court has discussed all aspects of the matter before exercising the discretionary power. I am in complete agreement with the findings recorded by the Labour Court. No case is made out to cause interference. Hence this petition is rejected. Rule is discharged with no order as to costs.

(Mr. K.S.Jhaveri, J)

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